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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,229	09/10/2003	Rajeev K. Nalawadi	42P17505	7726

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EXAMINER

STOYNOV, STEFAN

ART UNIT	PAPER NUMBER
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2116

DATE MAILED: 03/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/660,229	Applicant(s) NALAWADI ET AL.	
	Examiner Stefan Stojnov	Art Unit 2116	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-27 is/are allowed.
- 6) ☒ Claim(s) 1,6,7,11-21 and 28-30 is/are rejected.
- 7) ☒ Claim(s) 2-5,8-10 and 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 11-20 and 28-30 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 11 and 28 are not limited to tangible embodiments. In view of Applicant's disclosure, specification page 6, paragraph 0019, lines 1-6, the machine-readable medium is not limited to tangible embodiment, instead being defined as including both tangible embodiments (e.g. ROM, RAM, magnetic disk storage, optical storage media) and intangible embodiment (e.g. carrier waves, infrared signals, etc.). As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

To overcome this type of rejection claims 11 and 28 need to be amended to include only the physical computer media and not a transmission media or any intangible or non-functional media (i.e. "A machine-readable storage medium having executable code to cause a machine to perform a method for power management, ... etc.").

The rejection for claims 12-20 and 29-30, being dependant on claims 11 and 28, is based on the same ground of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a

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person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 6, 7, 11, 16, 17, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Challener et al., U.S. Patent Appl. Pub. No. 2003/0229802, in view of Wong-Insley, U.S. Patent No. 6,122,745.

Re claims 1 and 11, Challener discloses a method and a machine-readable medium having executable code to cause a machine to perform a method for power management, comprising:

loading authenticated/trusted code into a memory of a secure environment of an operating system (OS) (paragraph 16, lines 3-6, paragraph 0017, lines 1-11); and

executing the code within the secure environment of the OS (paragraph 16, lines 3-6, paragraph 0017, lines 3-5).

Re claim 21, Challener discloses a data processing system, comprising:

a processor capable of executing one or more processes in one or more secure environment respectively (paragraph 0023, lines 4-5, FIG. 3, CPU);

a memory coupled to the processor (FIG. 3, CPU, Memory); and

a process executed by the processor from the memory to cause the processor to

load authenticated/trusted code into a memory of a secure environment of an operating system (OS) (paragraph 16, lines 3-6, paragraph 0017, lines 1-11) and execute the code within the secure environment of the OS (paragraph 16, lines 3-6, paragraph 0017, lines 3-5).

Challener fails to disclose loading and executing power management code to handle power management tasks.

Wong-Insley teaches a method and apparatus for performing power management in a Java operating system (column 1, lines 12-15) having a software power management component (column 3, lines 4-19, FIG. 2, 212) controlling the system or device power states according to the ACPI specification (column 5, lines 45-48, column 6, lines 36-38, FIG. 4). In Wong-Insley, the above-described method and apparatus allow for ACPI implementation within a Java operating environment (column 1, lines 40-41). Thus, a hardware-independent power management framework is achieved (column 1, lines 46-49).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use the software power management component controlling the system and device power states according to the ACPI specification, as suggested by Wong-Insley with the method, machine-readable medium having executable code to cause a machine to perform a method for power management, and data processing system disclosed by Challener in order to implement loading and executing power management code to handle power management tasks. One of ordinary skill in the art would be motivated to do so in order to achieve hardware-independent power management framework.

Re claims 6 and 16, Challener further discloses the method and machine-readable medium having executable code to cause a machine to perform a method for power

management, wherein the secure environment is launched in response to an initiation of a secure transaction by a user (paragraph 0019, lines 6-9).

Re claims 7 and 17, Challenger further discloses the method and machine-readable medium having executable code to cause a machine to perform a method for power management, further comprising authenticating the power management code to determine whether the power management code is trusted (paragraph 0017, lines 1-11).

Allowable Subject Matter

Claims 23-27 allowed.

Claims 2-5, 8-10, and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 12-15 and 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In addition, claims 12-15 and 18-19 (being dependant on claim 11) would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 101, set forth in this Office action.

Claims 28-30 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 101, set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter:

Re claims 2 and 12, the prior art fails to disclose or suggest the method and machine-readable medium having executable code to cause a machine to perform a method for power management as per claims 1 and 11, further comprising "determining whether the secure

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environment of the OS has been activated, the loading and executing the power management code being performed if the secure environment is activated”.

Re claims 5, 15, and 22 the prior art fails to disclose or suggest the method, machine-readable medium having executable code to cause a machine to perform a method for power management, and data processing system as per claims 1, 11, and 21, further comprising the steps of “determining whether the secure environment of the OS is about to terminate; and terminating and unloading the power management code from the memory prior to terminating the secure environment of the OS”.

Re claims 8 and 18, the prior art fails to disclose or suggest the method and machine-readable medium having executable code to cause a machine to perform a method for power management as per claims 1 and 11, wherein authenticating the power management code comprises the steps of “retrieving a public key from the power management code; computing, via one or more hash operations, a hash of the public key; and comparing, the computed hash of the public key with a public key hash stored outside of the power management code to authenticate the power management code”.

Re claims 23 and 28, the prior art fails to disclose or suggest the method and machine-readable medium having executable code to cause a machine to perform a method for power management, comprising the steps of “launching a secure environment within an operating system of a data processing system in response to a request from a transaction; dynamically loading a power management code for handling power management during launching the secure computing environment; and dynamically unloading the power management code when the secure computing environment is terminated”.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Stoynov whose telephone number is (571) 272-4236. The examiner can normally be reached on 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on (571) 272-3670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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